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McLEODUSA TELECOMMUNICATIONS
SERVICES, INC.

Complainant

COMPLAINT AGAINST ILLINOIS BELL
TELEPHONE COMPANY D/B/A
AMERITECH ILLINOIS UNDER SECTIONS
13-514 AND 13-515 OF THE PUBLIC
UTILITIES ACT CONCERNING THE
IMPOSITION OF SPECIAL CONSTRUCTION)
CHARGES AND SEEKING EMERGENCY)
RELIEF PURSUANT TO SECTION 13-515(e))

CHIEF CLERK'S OFFICE

Docket 00-0107

**MCLEODUSA TELECOMMUNICATIONS SERVICES, INC.'S
REPLY TO AMERITECH'S MOTION TO DISMISS IDLC AND RSU CLAIMS, AND
FURTHER OPPOSITION TO EMERGENCY RELIEF**

McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), by its undersigned attorneys, files this reply to Ameritech's Motion To Dismiss IDLC And RSU Claims, And Further Opposition To Emergency Relief ("Ameritech's Latest Pleading"). For the reasons explained below, the Commission cannot even consider Ameritech's Latest Pleading. And, even if it could, the Commission will conclude that the arguments it raises in opposition to emergency relief are totally without merit.

I. AMERITECH'S LATEST PLEADING CANNOT BE CONSIDERED.

Before the Commission begins to consider the merits -- or lack thereof -- of the arguments contained in Ameritech's Latest Pleading, it must ask under what authority Ameritech has filed this document. The answer to this question is there is no such authority.

There is no statute or rule that affords Ameritech the right to file its Latest Pleading. Section 13-515(e) addresses requests for emergency relief, and makes no provision for responsive pleadings, let alone multiple responsive pleadings. This provision requires that the Hearing Examiner act on a request for emergency relief within two business days of the filing of the complaint. See Section 13-515(e). Reading this provision in a manner most favorable to Ameritech, no response to a request for emergency relief is permitted after expiration of the two-day period in which the Hearing Examiner must act, if one is permitted at all. Since the Hearing Examiner had to act by February 1, 2000, Ameritech's Latest Pleading which was filed on February 2, 2000 must be disregarded.'

Ameritech has shown that it knew there was no basis for its filing because, in its Motion for Leave to File Instantly, Ameritech noted (incorrectly) that the "Commission's rules "do not provide for any response to the Opposition."² (Motion for Leave to File Instantly, para. 4) It is simply inconsistent for Ameritech to contend that McLeodUSA could not file a response to the Opposition, but that Ameritech could file a further opposition.

'It is also questionable whether Ameritech had any authority to file its original Opposition to the request for emergency relief. That Ameritech recognized this is obvious, given its Motion for Leave to File Instantly. Thus, the Hearing Examiner should deny Ameritech's Motion for Leave to File Instantly.

²As explained by McLeodUSA in its Reply To Ameritech's Opposition To Emergency Relief (the "Reply"), this allegation is flat-out wrong. McLeodUSA was entitled to file its Reply because Section 13-515(d)(5) permits a complainant to file a reply to any responsive pleading filed under Section 13-515(d)(4) where such response raises the issue that complainant violated subsection (i) of Section 13-515 of the PUA. Ameritech raises this very issue at page 7 of its Opposition by referring specifically to Section 13-515(i). Therefore, McLeodUSA had the absolute right to file its Reply.

There must be an end to the filings. Ameritech's Latest Pleading must be rejected to the extent it addresses the request for emergency relief.

II. AMERITECH'S LATEST PLEADING RAISES NO MERITORIOUS ISSUE.³

Ameritech's Latest Pleading argues that the portions of the Complaint directed to unbundled loops provisioned over IDLC or RSU should be dismissed because the "BFR" process described in the Complaint with respect to such loops is authorized in the QST interconnection agreement. (Ameritech's Latest Pleading, para. 2) Yet, in the prior paragraph, Ameritech does not concede that the QST interconnection agreement even applies, (See Ameritech's Latest Pleading, para. 1) Ameritech cannot seek affirmative relief through a motion such as Ameritech's Latest Pleading and then deny the very facts that underlie the relief it requests in its motion.⁴

More importantly, the portions of the Complaint related to provisioning of loops served via IDLC or RSU is not limited to whether a BFR process is permissible, as Ameritech's motion suggests. Rather, the primary issue is the price that Ameritech is demanding for the provisioning of such loops. Ameritech's motion conveniently fails to note that the QST interconnection agreement (which Ameritech does not admit applies)

³This section is a response to Ameritech's Latest Pleading only to the extent it addresses McLeodUSA's Request for Emergency Relief. McLeodUSA reserves the right to respond to Ameritech's Latest Pleading to the extent it is addressed to McLeodUSA's request for permanent relief, pursuant to a briefing schedule set by the Hearing Examiner.

⁴Similarly, in its Opposition to Emergency Relief, Ameritech has asked the Commission to deny McLeodUSA emergency relief based on a contractual provision yet at the same time refuses to admit the effectiveness of the contract in Ameritech's Latest Pleading. Ameritech argues the facts differently as its purposes change. The Commission must reject Ameritech's contractual arguments, even putting aside the fact that this case is about Ameritech's practices, not its interconnection agreement.

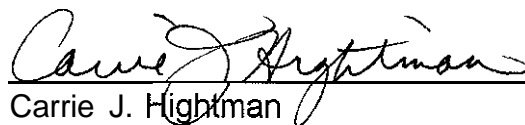
is silent as to the price to be paid for provisioning these facilities other than the recurring and non-recurring charges for the loop. The portion of the agreement quoted at paragraph 4 of Ameritech's Latest Pleading makes this clear, since it does not address special construction charges at all. Indeed, there is nothing in the quoted portion of the agreement which establishes that McLeodUSA agreed to pay the special construction charges Ameritech has sought to collect, either before, during or after the BFR process. Thus, McLeodUSA is likely to succeed on the merits.

WHEREFORE, McLeodUSA Telecommunications Services, Inc. respectfully requests that the Commission reject Ameritech's Latest Pleading to the extent it addresses McLeodUSA's request for emergency relief. Even if the pleading is considered, the argument it raises proves nothing, and must be rejected.

Dated: February 3, 2000

Respectfully submitted,

McLEODUSA TELECOMMUNICATIONS
SERVICES, INC.

A handwritten signature in cursive script, appearing to read "Carrie J. Hightman", is written over a horizontal line.

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CERTIFICATE OF SERVICE


The undersigned attorney for McLeodUSA Telecommunications Services, Inc. hereby certifies that she caused copies of the attached McLeodUSA Telecommunications Services, Inc.'s Reply to Ameritech's Motion To Dismiss IDLC And RSU Claims, And Further Opposition To Emergency Relief to be served on' the persons listed below electronically, followed by facsimile on February 3, 2000:

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